
Appeal Decision

Inquiry opened on 27 January 2015

Site visit made on 24 February 2015

by Keith Manning BSc (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 June 2015

Appeal Ref: APP/Y2810/A/13/2200749

Land adjacent canal and south east of Tower Farm Saddlers, Barby Lane, Barby, Northamptonshire CV23 8UX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Enzygo Limited against the decision of Daventry District Council.
 - The application Ref DA/2012/0743, dated 18 September 2012, was refused by notice dated 18 May 2013.
 - The development proposed is construction of a 200 berth marina adjacent to Oxford Canal, including 85 car parking spaces, landscaping and associated facilities; change of use of agricultural dwelling and barn to mixed use for chandlery, reception and storage for marina use only.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Daventry District Council against Enzygo Limited. This application is the subject of a separate Decision.

Preliminary and Procedural Matters

3. The Inquiry sat for the four days 27-30 January 2015. The site visit originally programmed for 5 February was deferred by reason of ice until 24 February. I here record my appreciation of participants in the inquiry who worked together to facilitate a site visit which included progress along the Oxford Canal by narrowboat from Braunston Marina to Wharf Bridge, Hillmorton; thereby enhancing not only my understanding of the canal and its environs but also the nature and location of existing and planned marinas within the Braunston Pound. Particular thanks are due to Mr & Mrs Bradshaw, who made their boat and time available for the purpose.
4. Originally requested by the appellant and by the Council for determination by written representations, the procedure for this appeal was changed pursuant to s.319A of the Town and Country Planning act 1990, initially to a hearing, which opened on 22 July 2014, but subsequently to an inquiry. Having forewarned the parties prior to opening the hearing that I considered the procedure, in the light of representations received and various other circumstances, was likely to be unequal to the task in hand, I determined, after hearing oral submissions from the parties and interested persons, that an inquiry should be held. My reasons are set out in a letter dated 28 July 2014.

5. The complex history of the proposal includes an evolution by submitted changes from the initial proposal for a marina with 144 berths and 60 car parking spaces on a 4.22 hectare site to the development described above on a 7.9 hectare site. When the Council originally screened the application it determined that Environmental Impact Assessment (EIA) was not required. At the aborted hearing it was put to me that the change in the scale of the application, reflected in the changed description, was material and that the Council's original opinion was therefore in respect of a substantially lesser proposal. The relevant threshold is such that it appeared to me entirely possible that EIA would in fact be required and I therefore, concurrently with changing the procedure to an inquiry, referred the matter to the Secretary of State for a screening direction.
6. On 21 August 2014 the Secretary of State confirmed that EIA was required for this particular proposal and the appellant agreed within the prescribed timescale to undertake the necessary work. This included collation of various technical work previously undertaken in respect of the original, smaller, proposal for incorporation in a formal EIA in respect of the enlarged proposal. The EIA was duly submitted to the Secretary of State. On 29 October 2014 he issued a request under Regulation 22 of the Environmental Impact Assessment Regulations 2011 for further information deemed to be necessary. This was submitted on 23 December 2014 in the form of an addendum to the EIA. As a consequence of this submission, various supplementary proofs in response to this addendum were placed before the inquiry by parties who had prepared their main cases prior to having sight of it.
7. The Secretary of State confirmed by letter of 23 January 2015 that the completed EIA now met the minimum requirements of the Regulations and the document was publicised in accordance with them. The consultation period closed after the close of the inquiry but parties to the latter were to be afforded an opportunity to subsequently comment on the EIA consultation responses in writing. As it turned out, there were none.
8. With effect from 1 April 2015 the organisation previously known as English Heritage divided, with responsibility for planning and regulatory matters now residing with 'Historic England'. In the interests of clarity and consistency with the documentation and consultation responses referred to herein I have continued, for the purposes of this decision, to refer to 'English Heritage' as it was formerly constituted, albeit the relevant material and responsibilities would now be within the domain of Historic England.
9. Immediately prior to this change, and after the close of the inquiry, the PPS5 Practice Guide¹ was cancelled. At around the same time English Heritage, as it then was, published three Good Practice Advice Notes. Two of these are of immediate relevance: Note 2 is entitled *Managing Significance in Decision-Taking in the Historic Environment*. Note 3 is entitled *The Setting of Heritage Assets*.
10. Note 3 supersedes the 2011 English Heritage document, now withdrawn but also entitled *The Setting of Heritage Assets*², to which reference was made at the inquiry.
11. In the circumstances and in the interests of fairness, I afforded the main parties and the Rule 6 parties the opportunity to comment on the implications, if any, for their respective cases as presented to the inquiry. All responded, and I have taken the comments received on this matter into account.

¹ DCD12

² DCD11

Main Issues

12. From all that I have heard, read and seen, I consider the main issues to be as follows:-
- 1) Whether the proposed development accords with the intentions of the development plan and relevant national policy with particular reference to;
 - The location of the proposed development
 - Landscape impacts
 - Heritage assets
 - Biodiversity
 - 2) If it does not, are there material considerations which could potentially outweigh any conflict with those intentions?
 - 3) If the proposed development gives rise to planning harm, is any such harm outweighed by a demonstrable need or demand for it?
 - 4) Is there an actual or imminent surplus of marina and other canal berths in the locality that would negate such a claimed need or demand?
 - 5) If there is such a surplus, what, if any, would be the harmful planning consequences of adding to it? (Would a potential increase in congestion of the canal network locally, or an increase in competition between local marina providers, for example, have harmful planning consequences?)
 - 6) In the light of 1) to 5) above, does the proposed development represent sustainable development for the purposes of the National Planning Policy Framework?
13. Notwithstanding submissions regarding the adequacy of the Environmental Statement, that of itself is not the determinative issue in this case, but it is a matter I address below. The various parties to the inquiry indicated general agreement with the broad scope of the substantive issues identified above.

Reasons

Environmental Statement

14. Objectors to the proposed development, notably J Marine Ltd, but latterly supported in this also by Braunston Marina Ltd and the Council itself, submitted that the Environmental Information submitted in the form of an Environment Statement for the purposes of 'the EIA Regulations'³, including cursory examination of alternatives, was inadequate to the task of informing me, as the decision maker, as to the likely environmental effects of the proposal. On that basis alone, it has been submitted, planning permission should be withheld.
15. Be that as it may, it is not for me to take a different view to the Secretary of State as to compliance with the minimum requirements of the EIA Regulations. The very fact of the Secretary of State's Regulation 22 request confirms that the original submission was inadequate. His subsequent confirmation that the EIA Regulations had been complied with is by no means an endorsement of the final Environmental Statement as an example of best, or even good, practice. Patently, in this case, it is not.

³ The Town and Country Planning (Environmental Impact Assessment) Regulations 2011

16. The reasons for this lapse are unclear, but seem to me to be rooted in the manner in which the proposed scheme was allowed to evolve post-application towards a position of officer recommendation in favour of a substantially different scheme. I accept that much information was submitted with the original and more limited proposal but attempts to adapt that to the larger scheme subject to appeal, with supplementary material only as deemed essential by the appellant, were unlikely to promote clarity or utility. At the very least, it has made my task a great deal more difficult. The parties can draw lessons from this particular saga, but in the final analysis I am able to draw firm conclusions on the relevant substantive issues in any event. I therefore concentrate on those for the purposes of this decision.

Background – The Braunston Pound, the appeal site and the proposed marina

17. The Braunston Pound, as it is known, contains the junction between the Oxford Canal and the Grand Union Canal. It comprises approximately 14 miles of uninterrupted waterway contained between locks at Napton, Calcutt, Braunston and Hillmorton, the latter being a suburb of Rugby. It occupies a pivotal position in the network of canals in England and is consequently amongst the busiest of its component parts, if not the busiest, as measured by lock movements and journeys through and within the pound. Statistics demonstrating this point, produced for the inquiry and drawing on figures published by the Canal and River Trust (CRT), were not challenged and I have no reason to disagree.⁴ The pound has been described as the... *"Piccadilly Circus of the Inland Waterways, being the link between the NW, SE, SW and NE canals"*.⁵
18. There are already 9 marinas closely associated with the pound, i.e. in the pound or immediately by the locks.⁶ Planning permission exists for a very large (500 berth) marina at Onley (the prison farm site) and a further 123 berths at the 20 berth Blue Haven (by Wharf Bridge) area. I have no evidence to suggest that these will not be implemented.
19. The 7.9 hectare site for the proposed marina subject to this appeal lies at the eastern end of the 'Barby Straight' immediately to the north and east of Norman's Bridge on the same side of the canal (i.e. the northern bank) as the towpath, which is also the route of the Oxford Canal Walk. The land north of the canal is primarily flat, open pasture with hedgerows and hedgerow trees dividing large fields. It falls gradually northwards as part of a broad vale centred on Rains Brook. North of this watercourse it rises more noticeably towards the southern fringes of Rugby at Hillmorton, which dominate the northern skyline at some distance away. South of the canal the land rises gently and is also rural in nature but a little more enclosed, including by a wooded area to the south east of Norman's Bridge.
20. The marina basin would be accessed via an engineered breach in the existing canal embankment near Norman's Bridge and the continuity of pedestrian access along the towpath would be secured by the construction of a footbridge over the marina entrance. The canal would be widened at the point of access to accommodate a turning area.
21. It is proposed that material excavated to form the basin would be used to create embankments as shown. The submitted masterplan⁷, identified in the Statement of Common Ground as the basis for determination, shows a flat-topped embankment being raised along the northern perimeter of the site of around 2.5 metres in height. This would contain an engineered bowl to contain an existing

⁴ ID3

⁵ Ibid.

⁶ Ibid.

⁷ OPTION 3_280213 REV. A DRAFT

field pond and a new post and wire fence and hedgerow are proposed along much of the northern rim of the elongated plateau formation, corresponding at this point with the application site boundary as defined. Beyond this the embankment would fall gradually in the direction of Rains Brook on land outside the application site for a distance of 50-60 metres across a broad front in excess of 200 metres.

22. One consequence of this is that significant engineering works are in fact proposed outside the site boundary, albeit on land within the control of the appellant. This is clearly problematic, albeit not necessarily insuperable, with a range of opinion being expressed by participants in the inquiry as to how the matter could be addressed in the event of the appeal being successful.
23. The marina basin itself would take the form of broadly rectangular basin narrowing towards its eastern end with rounded corners and shallow margins, across which a perimeter boardwalk would be constructed, with the berths arranged at right angles to it. The centre of the marina basin would contain two wooded islands. Parking areas would be dispersed around the eastern, northern and western margins. The vehicular access would be to Barby Lane via the existing farm access, the farmhouse would become the reception building for the marina, the existing barn would be retained for marina use and a small utilities building would be constructed between the two existing buildings at the western end of the marina basin.
24. Third party representations demonstrate that, for technical reasons stemming from its size, volume and construction detail, the proposed marina would fall within the purview of the Reservoirs Act 1975.⁸ The appellant did not seek to contest the evidence presented in this connection and I have no reason to take an alternative view.

1) Accordance with the development plan and national policy

25. The essential starting point in the determination of this appeal is the development plan. Relevant policies include saved policies of the Daventry District Local Plan ('the local plan') and I have no reason to consider the broad intentions of those cited in the Statement of Common Ground to be inconsistent with those of the national planning Policy Framework ('the Framework'). These saved local plan policies are now complemented by the Joint Core Strategy (JCS) for West Northamptonshire, which was adopted on 15 December 2014. Therefore these also carry the full weight of development plan policy.
26. Local plan policies GN1 and GN2 are criteria based policies for the management of development. Policy EN2 concerns development within conservation areas. EN25 and EN42 respectively concern the landscaping and design of development proposals. Policy RC8 specifically concerns canal-based recreation facilities, whilst TM2 concerns tourism development more generally.
27. JCS policy SA reflects the presumption in favour of sustainable development set out in the Framework. Policy S1 concerns the distribution of development. E7 concerns tourism, visitor and cultural industries. BN5 concerns the historic environment and landscape and R2 the rural economy.
28. Accordance with relevant policy falls to be considered under topic headings as I have indicated. These are addressed below.

⁸ ID8

Location of development

29. JCS policy S1 aims to concentrate most forms of development in a hierarchy of urban and rural settlements but allows for limited development in rural areas with particular emphasis being given to four qualities of such areas set out under part D).
30. There is no doubt that the appeal site and its surroundings are relatively tranquil in ambience, a quality highlighted and given added value by the visual presence of urban activity in the distance on the outskirts of Rugby and further afield where development including wind turbines can be made out. That said, marinas of the scale proposed are typically dominated by boats at rest for storage purposes and are not, for the most part, characterised by a bustle of activity other than in limited areas where services are concentrated. At limited peak boat usage times I would expect significant activity including the movement of cars around the perimeter of the basin to access particular parking areas and boats, but generally speaking I would expect relative quietude across the bulk of the site. I do not consider the quality of tranquillity would be fundamentally compromised in the manner in which it could be by more intensive and inherently noisy activities. Equally, I do not consider that the distinctive character and vitality of any particular rural community would be enhanced by the proposal.
31. I accept that there would be some economic advantage to the rural area. However, this is not quantified by the appellant in terms of a specific number of jobs. Neither has a strong case been made in respect of farm diversification and it is clear that, at the very least, the existing farm operation would have to be significantly adapted to accommodate the proposed marina. The village of Barby is the nearest rural settlement but it is not clear from the information submitted how linkages between this proposed development in its hinterland and the village itself would be strengthened.
32. Barby is located approximately 1.5 km from Norman's Bridge, which is itself difficult for pedestrians, being narrow and obscuring forward vision on the rural lane. Nor is the walk along the lane to Barby an easy or safe one, as the grass verges necessitate walking in the road, which can at times be relatively busy as I have observed on site visits prior to the formal visit undertaken. Reaching the outskirts of Rugby at Hillmorton a similar distance to the north is likewise inconvenient and relatively hazardous for pedestrians. Access to the Wharf Bridge area of Hillmorton is possible along the towpath but, at around 1.5 km in distance, would be primarily a fair weather daytime option for most, and Onley, in the opposite direction is around 3 km via the towpath. Public transport is limited and in practice I would anticipate that such interaction as would occur between users of the marina and local settlements would primarily be by private motorised transport. The proposed marina would be effectively isolated from established settlements.
33. This characteristic would not sit well with the intention of JCS policy S1 to facilitate access to jobs and services in the rural area and would run directly counter to the local plan policy RC8. This is unequivocal in its intentions... *"Planning permission will normally be granted for canal based recreation facilities provided that new boat bases and moorings together with facilities involving substantial new buildings are closely related to existing settlements."*
34. Prima facie there would be a conflict with this policy and no party seeks to argue otherwise. I note from its explanation that the original thinking behind it is to conserve the nature conservation and amenity value of the canals in Daventry but read together with the relevant intentions of JCS policy S1 it is very clear that, for

a variety of reasons, the intention of the development plan is to direct development such as this to locations well related to established settlements. That would be consistent also with the core principle of the Framework to focus significant development in locations which are or can be made sustainable.

Landscape

35. Evidence was adduced by J Marine Ltd⁹, and not substantially challenged by the appellant, to demonstrate that the landscape in which the appeal site is situated, although not subject to any special designations for its intrinsic quality, is nevertheless sensitive to change. Moreover, it is contended, there are significant flaws in the approach embodied in the Landscape and Visual Impact Assessment submitted with the application originally.
36. There are a number of aspects to this. First, the sensitivity of the landscape is heightened by; its intimate relationship with the designated heritage asset of the Oxford Canal Conservation Area (a matter to which I return); the proposition that its key characteristics of flat, open pastures, limited woodland and sparse settlement are incompatible with the scale and type of development proposed; the effects of lighting are underestimated and the consequences for tranquillity are not assessed. Secondly, it is contended that the magnitude and significance of adverse landscape and visual effect is underestimated; thirdly, that cumulative effects are ignored; and fourthly that the most recent practice guidance on LVIA is not followed. Finally it is contended that there are a number of errors that make it unreliable.
37. Additionally and separately the proposition is put that the requirement to appoint a specialist engineer under the Reservoirs Act 1975 charged with ensuring the safety of the water body relative to surrounding land would require the raising of the proposed embankment by perhaps a little over half a metre.
38. Be that as it may, I have considered the potential effect of the proposal within and on the landscape with reference to all the information currently to hand and the benefit of visiting the site and the surrounding area. The site is very exposed within a tract of open landscape that is not generally characterised by heavy tree cover or significant topographic or man-made features other than the canal itself to enclose and screen the large water body proposed, which would be characterised by the mass storage of boats.
39. Inevitably the landscape of the site would be transformed in a manner which would be very apparent not only from the canal and its towpath but from vantage points including existing canal bridges and elevated land, albeit the effect of distance would be considerable in reducing the visual impact from the fringes of Hillmorton. The road around the site and the car parking would add to the urbanising effect of the mass storage of boats and whilst the impact of the utilities building would be relatively insignificant in the context of the existing buildings to be retained and used for marina purposes, the form and extent of the proposed footbridge, necessitated by situating the proposed marina on the towpath side, would be very apparent and would compete for attention in the landscape with the nearby Norman's Bridge. Notwithstanding the scope for some landscaping at the margins, mainly in the form of new hedgerows and sporadic trees, together with that proposed on the islands within the marina basin, the form, extent and use of the marina would be relatively unrelieved in a visual sense in the immediate surroundings and in the broader landscape, especially as experienced from the canal and its original bridges. It is a relatively exposed site for such a

⁹ Evidence of Mr Jones

construction. Moreover, the form of the embankment on the northern margin of the site would appear incongruous and unnatural in the flat topography, an effect that would be exacerbated by the gap to accommodate the bowl for the existing pond.

40. Overall, I consider that, despite the efforts taken to naturalise the design of the marina, it would appear as a large and artificial addition to the landscape. Although, plainly, this is already heavily influenced by human activity including the construction of the canal itself, the area in which the marina would be situated remains pastoral in character and appearance, locally distinctive, and relatively free of intrusive development, albeit urban pressures on the landscape to the north and east are quite evident. However, if anything, these intensify the aesthetic value of the appeal site and its environs, as appreciated from the canal in particular. On that basis there would be a degree of conflict with relevant intentions concerning environmental protection embodied in local plan policies GN1 (B.), GN2 (A.), EN25 (B.) and JCS policy BN5, the latter being especially relevant to, and closely linked with, the next topic. Moreover, insofar as the Framework, as a core principle, advocates recognition in decision-taking of the intrinsic character and beauty of the countryside, the negative visual effects of the proposed marina in this location weigh against it in that context also.

Heritage Assets

41. The Grand Union and Oxford Canal is designated a conservation area. Its character, appearance and significance are comprehensively described in the Council's 1995 appraisal document. Although the boundary of the conservation area is tightly drawn to correspond to the canal and closely connected features, its broader setting is clearly important to the manner in which its character and appearance is experienced and appreciated. Because of its very nature, a linear construction through the landscape, the conservation area and its setting are effectively indivisible. It passes close to and through settlements, notably Braunston, but much of its setting is rural. The appeal site is undoubtedly so, albeit to the west of Norman's Bridge the rural character of the canal is to some degree compromised. In the words of the appraisal...*"In the Onley area the prison is very visible from the canal and in the section between Barby Wood and Norman's Bridge, the canal is on a modern alignment with a series of residential mooring plots to the east side which do intrude somewhat into the rural feel of the canal."*¹⁰
42. I am obliged in any event, by virtue of the relevant provision of s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, and the Framework emphasises the care that must be taken to conserve heritage assets including conservation areas. The statutory duty embraces both character and appearance separately and the approach of the Framework is set out in paragraphs 128 – 134, amongst others.
43. Paragraph 128 makes clear the approach that applicants for planning permission should take in respect of heritage assets affected. Conservation areas, being formally designated, are self-evidently important in this context. Paragraph 132 concerns the significance of designated heritage assets and the conservation area is clearly important in that context. It emphasises that significance can be harmed or lost through alteration or destruction of the asset or development within its setting. The definition of the setting of a heritage asset given in the glossary to the Framework and I am in no doubt that the appeal site is firmly within that

¹⁰ MCD7 paragraph 4.5.12

- definition, whilst the proposed engineering works to create an entrance to the marina impinge directly on the conservation area itself.
44. A considerable body of expert evidence, largely uncontested by the appellant, was adduced by the Council and by J Marine to demonstrate that the significance of the Grand Union and Oxford Canal Conservation Area would be harmed, albeit less than substantially, by the proposed marina. I am conscious that in rejecting an earlier proposal for a smaller marina at the same site in 2010¹¹ my colleague was content that its impact on the conservation area was acceptable, partly because marinas are the sort of infrastructure one would expect to be found adjacent to a canal.
45. The latter point is entirely correct, in the sense that marinas for canal boats could not be expected to locate other than in such situations (as the Inspector who determined the appeal¹² for the Barby Moorings Marina in 2009 had previously observed.) Moreover, I am equally conscious that the approach of the Framework was foreshadowed in the former PPS5 and associated practice guidance (now also cancelled.) However, I am not party to the evidence that was before my colleague and the proposal he considered at the current appeal site was of course substantially smaller. Amongst other points he concluded that the marina would be *"at a scale that would be compatible with this sensitive area"*. I, on the other hand, bearing in mind the statutory duty also, am obliged to consider not only the specific merits of the current proposal but also those of the evidence specifically put to me which, inter alia, addresses the cumulative impact of a number of existing and planned marinas on this stretch of canal.
46. In this context I am aware that English Heritage guidance¹³ on the setting of heritage assets which has been superseded since the close of the inquiry, advised that... *"previous permissions for similar development may not provide a sound reference point for the acceptability of impacts on setting (as the cumulative effect is different for each new development and may have reached a tipping-point which further development results in substantial harm to significance)."* That principle remains entirely apposite in this case bearing in mind also the preceding advice in the same superseded guidance document that, in respect of the overall effect of a series of discrete developments, the cumulative visual impact may be... *"the sequential viewing of several developments when moving through the settings of one or more heritage assets"*.
47. The new English Heritage advice document (Note 3) entitled *The Setting of Heritage Assets* carries forward the principle that cumulative change may detract from the significance of a heritage asset. At paragraph 9, the advice includes the following... *"Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset."* A very similar message is conveyed in paragraph 28 of the Good Practice Advice Note 2 entitled *Managing Significance in Decision-Taking in the Historic Environment*.
48. The relevance of the advice to the proposition in the Council's first reason for refusal, that the proposal would result in harm to the character and appearance of the canal conservation area and its landscape setting due to the cumulative impact resulting from its relationship to other marina developments in the locality, can best be appreciated when moving through the landscape along the canal, as I did

¹¹ DCD4

¹² DCD5

¹³ DCD11

- on my formal site visit. Alternatively, walking the length of the towpath, as users of the Oxford Canal Walk do, would engender a similar appreciation.
49. On leaving Braunston, with its marina and canalside development of an essentially urban nature, the largely rural character of the canal's setting soon becomes evident until the approach to Onley and its prison, where work is anticipated to commence shortly on the very large Barby Pools Marina, which was granted permission by the Council in December 2013. (Part in the Rugby area received permission early in 2014.) One then progresses to the Barby Straight where the Barby Moorings Marina (approved on appeal in 2009) and the residential mooring plots referred to in the conservation area appraisal are the dominant influence on the character and appearance of the canal-side environment which provides the setting for the canal itself. Beyond Norman's Bridge, there is a section as far as Tarry's Bridge within which there are few obvious intrusions upon the original rural setting of the canal other than the distant features previously described. Beyond Tarry's Bridge the expanding Blue Haven Marina (permission granted in October 2012) at Wharf's Bridge takes up the short stretch of canal-side to Wharf's Bridge. The existing marinas are on the eastern side of the canal but the permitted Barby Pools Marina and the proposed marina at issue would both be on the western side (requiring bridges over the towpath.) Overall, the consequence of permitting the current proposal would be that stretch of canal between Onley and Hillmorton would become characterised by four significant, and for the most part very recent, marina developments.
50. This situation would perhaps be akin to a long established rural road served by roadside services comprising garages and car parks. Clearly one would expect them on an occasional basis, but an excessive accumulation of such facilities would detract from the setting of the route, changing its essentially rural nature to something more dominated by the paraphernalia of the transport method. Having considered carefully the evidence proffered by the witnesses for the Council and J Marine, and having travelled the canal with that evidence in mind, I am, in the absence of a countervailing case beyond reliance on the earlier conclusions drawn in the context of a different appeal (which did not wholly replicate the physical and planning circumstances of the current appeal) persuaded that the cumulative effect principle addressed by both the former and the current English Heritage publications does now begin to come into play on this part of the canal. It is clear that further permissions have been granted on a relatively short stretch of the canal since the smaller marina on the appeal site was rejected at appeal.
51. Bearing in mind that marinas are, in principle, to be expected adjacent to, and in the setting of, canals and the previous conclusions of colleagues at sites nearby, I do not consider the 'tipping point' into 'substantial harm' (as the concept was expressed in the former English Heritage guidance¹⁴) to the significance of the canal conservation area would be reached by the current proposal. The original landscape through which the canal was constructed would still be apparent, albeit significantly altered, and the setting of heritage assets can in any event evolve over time. Nevertheless, it would add to a degree of proliferation that has already taken place between Onley and Hillmorton with consequential changes to the character and appearance of the surroundings in which the linear canal conservation area is set and experienced.
52. Moreover, the changes are cumulative and, for the reasons detailed in relation to the landscape setting of the canal, on balance, negative in consequence as far as the appeal site is concerned. On that basis, I consider there would be a degree of harm to the significance of the conservation area, which would therefore be

¹⁴ DCD11

diminished in value as a heritage asset. The undefined threshold of the significant harm referred to in paragraph 132 of the Framework would not in my view be crossed, even though the canal bank itself, which is part of the conservation area, would be altered and a new and relatively prominent footbridge constructed. However, there would be harm nonetheless and paragraph 132 states that any harm requires clear and convincing justification which, in the case of harm which is 'less than substantial', is essentially a balance against public benefits in the context of paragraph 134. This is a matter to which I return.

53. The impact of the physical works proposed within the conservation area boundary itself, when the linear conservation area is considered as a whole, would necessarily be quite limited as far as both its character and appearance are concerned, albeit the proposed footbridge, which is proposed on the basis of an indicative drawing only, would be partially within the boundary and would compete very directly with the original Norman's Bridge, altering the character and appearance of the conservation area at this point, bearing in mind that this is effectively indivisible from its immediate setting. In any event, the statutory duty falls to be discharged alongside Framework policy. This encompasses the requirement to consider the significance of the conservation area as a heritage asset and this has the potential to be determinative in this instance, as I have previously explained.
54. Development plan policy reflects both the statutory duty and the Framework. Local plan policy GN2 (E) requires that development should not adversely affect a conservation area or its setting. Policy EN2 seeks to preserve the character and appearance of conservation areas and JCS policy BN5 seeks to conserve and enhance heritage assets and their settings where these are at risk. It is clear from reading the explanation to the JCS policy that the canal and its setting, including the characteristic 'ridge and furrow' legacy (see below) are part of the historic environment which characterises the area and is one of its most valued assets, contributing significantly to local distinctiveness.
55. For the above reasons I conclude that the proposed development, both in its own right and cumulatively with others of its genre, would contribute to an erosion of the original character and appearance of the Grand Union and Oxford Canal Conservation Area and more particularly the setting within which it is appreciated, thereby undermining its significance as a heritage asset. Accordingly, I am bound to conclude that, notwithstanding an in-principle expectation that marinas will be associated with canals, in this instance there would be a harmful conflict with the intentions not only of the relevant statute and Framework but also with those of the development plan currently in force.
56. JCS policy BN5, consistent with Framework policy, embraces the importance of archaeological resources within the concept of historic heritage and paragraph 128 of the latter advises that, on sites with the potential to include heritage assets with archaeological interest developers should be required to submit an appropriate desk-based assessment and, where necessary, a field evaluation. In this instance the mediaeval legacy of ridge and furrow within the farmed landscape is significant, as is the potential for Romano-British remains below the ground surface.
57. My site visit persuaded me that the contention of J Marine Ltd regarding the potential damage to the ridge and furrow legacy through excavation of the appeal site for a marina exaggerated the significance of this consideration as far as the appeal site itself is concerned, the traces of that system being scarcely apparent to the casual observer, albeit discernible on careful analysis. The point appears to underplay the practical accessibility to most of the broader ridge and furrow

context of the landscape along the canal which contains many much clearer and better preserved examples of the practice. Subsequent agricultural practice has all but eliminated ridge and furrow on the appeal site, whereas elsewhere, in many locations, that erosion of the legacy has not occurred to such an extent. Whilst I acknowledge that the system of ridge and furrow was organised on a parish basis and has to be considered on that basis to be fully understood from a historical perspective, the erosion by modern ploughing that has over time reduced its physical presence on the appeal site renders it of reduced value as an example of the practice. In the broader context its loss would be of primarily academic significance and would not unduly diminish the appreciation of the canal conservation area by most as an example of industrial infrastructure constructed through a landscape strongly influenced by mediaeval agricultural practices.

58. There was no dispute in principle that the site has the potential to contain buried archaeological remains and in response to the Council's decision notice a further method statement for a geophysical survey and targeted trial trenching was undertaken by the appellant's archaeological advisers, the geophysical survey being undertaken in June 2013.¹⁵ However, while the Council's planning officer and the appellant had at the time of determination considered that permission could be granted subject to a pre-commencement condition requiring trial trenching, the County Archaeologist had previously advised that pre-determination trial trenching was more appropriate in the circumstances. The Council itself preferred the County Archaeologist's approach.
59. Cogent evidence was presented to me at the inquiry by the County Archaeological Adviser explaining why the low density of trial trenching proposed by the appellant, even on a targeted basis, was unequal to the task and that it would, moreover, be inappropriate to defer such investigation until after permission had been granted. No expert evidence was adduced by the appellant to counter this proposition, albeit there was clearly a reluctance to entertain the expense of pre-determination trial trenching in any event.
60. On the basis of what I was told and the detailed evidence presented, I concur with the views of the Council and the County Archaeological Adviser. The proposed development is definitive in terms of the extent of the marina basin proposed to be excavated. There would be no scope for adjustment so as to leave in situ discovered remains that merited such protection (as might be the case if for example outline planning permission were being granted for a housing development) and the County's witness explained that, on the face of detailed scrutiny of the geophysical survey, there were anomalies evident which suggested that could be the case and which could only be confidently assessed through an appropriate level of trial trenching. In short, the information to make an informed decision is currently inadequate given the known potential of the area to host significant archaeological remains.
61. For these reasons, I conclude that the proposed development would conflict harmfully with the intentions of local plan policy GN2 (F), which aims to conserve archaeological resources, and those of JCS policy BN5 which seeks to protect archaeological remains unless their loss is both unavoidable and justified. There is simply not the right level of information available to draw a reliable conclusion as to what would be involved in this respect and the circumstances are not at all conducive to addressing this difficulty through the imposition of a planning condition. An adequately detailed field evaluation involving trial trenching to a level sufficient to engender confidence would be necessary in this case. To allow the proposed development in the absence of such an evaluation would be contrary

¹⁵ Appendix to evidence of Mr Whitehouse

to the Framework's intentions as to the manner in which the historic environment should be conserved.

Biodiversity

62. The Council is content that the significance of the site as habitat for protected species including great crested newt, otter and water vole, can be addressed by condition, following the recommended mitigation in the submitted ecological studies. I am also conscious that there was no in-principle objection from Natural England or the Bedfordshire, Cambridgeshire & Northamptonshire Wildlife Trust to the original application and no responses were subsequently received when the ES was publicised. Nevertheless, strong and detailed expert evidence was adduced by J Marine Ltd to the effect that the surveys undertaken were inadequate in scope and, by now, unacceptably out-of date. They were not, it was argued, adequate for the purpose of the ES and for informing my decision.
63. It seems to me that much of the contention centred on professional opinion as to the scope, thoroughness and timeliness of the necessary survey work, as opposed to whether, in principle, mitigation of ecological impacts on the relevant species could be achieved, albeit it was argued that without comprehensive knowledge of potential impacts, the practicalities of such mitigation could not be satisfactorily addressed. Nevertheless, expert evidence proffering an alternative view was not adduced by the appellant and therefore I am obliged to place significant weight on the arguments put by J Marine. That said, I am also able to temper that weight on the basis of my own knowledge and experience and I also consider that what might be regarded as best practice is not necessarily an absolute standard to be observed in all circumstances.
64. In the circumstances of this proposal, whilst the demonstrable inadequacies in the supporting information concerning biodiversity certainly do not weigh in its favour, they should not of themselves be decisive against it. Nothing further has been received from expert consultees regarding the ES. It was accepted in response to my question on the point that the earth moulding around the existing pond would not necessarily render it unsuitable for great crested newts and, in any event, I am aware that relatively minor measures of the right type can be effective in maintaining or even improving habitat for otter and water vole. Bearing in mind the nature of the development, I consider that such measures could be readily achieved. Equally, I would anticipate that adequate safeguards could be devised and implemented in respect of white clawed crayfish, a protected species thought to be present in the canal but not specifically surveyed for. The natural world is inherently dynamic and adaptable and, with adequate care, I can foresee that all the species cited could be suitably catered for. Relevant habitat would be altered not destroyed.
65. I note that the Council proposes a condition requiring a scheme of mitigation for otter and water vole and I consider that the approach could be extended to cater for great crested newt and white clawed crayfish supplemented as necessary by more up-to-date survey work. All things considered, the evidence does not lead me to the conclusion that the impact on biodiversity would be sufficiently harmful in itself to warrant refusal of the proposed development. Such conflict as there would be with the intentions of the Framework and the development plan could be addressed by the imposition of appropriate conditions.

2) Other material considerations

66. I have concluded that the proposed development would conflict harmfully with the intentions of the development plan and relevant national policy in a number of respects as detailed above. The primary consideration that might potentially outweigh the harmful consequences I have identified, bearing in mind the aspirations for economic growth reflected in the Framework, must be the economic benefits that would arise from the construction and operation of the marina, especially the latter insofar as this would be an enduring benefit locally. This consideration is related in many respects to the question of whether or not there is a demonstrable need for the proposed marina, which I have identified as an issue in its own right and which I address below.
67. The reasoning of the Inspector who considered the previous appeal¹⁶ at this location was influenced in part by the Good Practice Guide for Tourism, a material consideration that no longer exists following its withdrawal. I can place no weight on the document per se, nor on the advice in the former Planning Policy Statement 7 Sustainable Development in Rural Areas, which was also influential, but I am conscious that the Framework seeks to support economic growth in rural areas through development plan policies that positively promote sustainable tourism and leisure developments. Local plan policy TM2 and JCS policies E7 and R2 aim to do that but it is clear from my conclusions on environmental issues that specific relevant criteria therein are not all well met, if at all. In principle, however, the economic benefits of the proposal, such as they may be, weigh in its favour.
68. However, such benefits stand to be considered in the broader context of development on the national canal network in any event and I note also that the CRT now considers that the previous generic estimate of income retention of £421,000 per annum within a 32 kilometre radius of a 200 berth marina should no longer be relied upon as it was based on 2005 prices.¹⁷ Be that as it may, the benefit to be ascribed to such a development as a consequence of a figure of that order of magnitude is, in my estimation, most likely diffuse even locally, given the large area encompassed by such a radius, and the use of such a figure whether up-to-date or not is of limited utility. Suffice it to say that those economic benefits which would accrue are potentially reinforced by need if that were to be conclusively demonstrated. Equally, the claimed absence of demonstrable need is a consideration addressed by certain of the parties opposed to the scheme.
69. Whilst the Framework, at paragraph 14, embeds the concept of objectively assessed needs in the plan-making process, the absence of forward identification of specific marina sites required to satisfy any such needs requires a more reactive approach to the issue as a material consideration.

3) Need for the development

70. The Council appears somewhat 'agnostic' on the question of whether or not need is a potentially determinative material consideration in this instance, being inclined to the view that it is not. In taking this view it appears to be heavily influenced by a number of appeal decisions regarding marinas in the Green Belt, including one of my own, at Cummins Farm in Worcestershire¹⁸, the short point being that demonstrable need is held to be a vital contributor to the very special circumstances required to justify inappropriate development. As this site is not within the Green Belt, it is suggested, there is no equivalent onus on the appellant to demonstrate need.

¹⁶ DCD4

¹⁷ Email from Ian Dickinson (CRT) to Bob Ham (Daventry DC) dated 24 November 2014 @09:36

¹⁸ Appendix 9 to evidence of Mr Corcoran Ref APP/H1840/A/11/2162708

71. That approach is in my view too simplistic and arguments countering it are presented in detail in Counsel's opinion originally submitted on behalf Braunston Marina and elsewhere in that party's case. Whilst much was made at the Inquiry of paragraphs 28 and 73 of the Framework which variously refer to meeting identified needs, the paragraphs are essentially concerned with the evidence base underpinning policy formulation rather than reaction to market perception of need through the development management process. There is no doubt that need is material in the former context, whereas in many development management situations the need or lack of need for a particular development is not a question which the decision maker must necessarily be concerned with.
72. The position is straightforward nevertheless and ought not to give rise to any confusion. It is not for the planning system to determine the operation of the market or to unnecessarily restrict competition. It is for the planning system, on the other hand, to identify planning harms, notably conflict with the intentions of established policy or relevant statute. In the event that a proposed development would give rise to such harm, then the matter of need must inevitably enter the balance, in which case it might be decisive in favour of a proposal notwithstanding identified harm. In this case there clearly would be planning harm as a consequence of the development and therefore the matter of need is a material consideration potentially of some importance to the outcome of the appeal. Essentially, in the context of the public interest, is the need powerful enough to outweigh the harm?
73. The appellant's principal submission regarding need¹⁹ was submitted with the application. It focused on the movements through the Hillmorton and Napton locks in the context of national figures regarding boat ownership, demography and leisure spending. More specifically, it drew on the British Waterways Inland Marina Investment Guide (IMIG) forecasts and the higher growth evidently experienced in the South East Region, estimating 6% growth per annum. Comparing growth predictions with projected mooring availability a shortfall in berths for the region as a whole of around 380 moorings over the following 5 years was predicted, 200 of which would be met at the appeal site.
74. Against that must be set the more recent, independently researched, and largely uncontested, evidence of Mr Corcoran who demonstrates that demand anticipated back in 2006 at the time the then British Waterways published the IMIG has not been sustained and that the picture of high occupancy and speedy take up of new berths, buoyant mooring fees and rising numbers of new boat registrations has in fact been replaced by a picture of declining boat manufacture, boats being taken out of commission, declining registration of new boats and increasing vacancies in marinas, in part caused by 'continuous cruisers' utilising bankside moorings in preference to berthing. Moreover the IMIG has been withdrawn by the Canal & River Trust (CRT), in part because the anticipated demand has not materialised.
75. All in all, there is no cogent up-to-date evidence of current need for the additional capacity that the proposed marina would provide for, whether inferred from the national picture or more locally based on clear demonstration of frustrated demand for berths or identification of the residential origins of boat owners, albeit the south east seems likely to represent a strong component in any such distribution. The CRT might reasonably be expected to have a clear, evidence-based overview complemented by more precise local information, but it has previously been content to rest on a more generic approach, encouraging new marinas so long as the market is content to provide them and the system is capable of supporting them in operational terms. While the substantially more regulated and planned

¹⁹ Addendum: Updated Assessment of Need (dated November 2012)

approach advocated by Mr Corcoran may be eschewed by CRT for doubtless very good reasons, it seems to me that the lack of authoritative and comprehensive information on current and anticipated need or demand hinders the achievement of a coherent assessment by which the need for any particular proposed marina may be weighed against potentially adverse effects.

76. It therefore falls to individual promoters to make the case as best they can in circumstances where it is necessary to do so in order to counter-balance demonstrable planning harm. In this case, the original assertions of need/demand are undermined by more up-to-date evidence from Mr Corcoran, which perforce carries significant weight in the absence of cogent evidence to the contrary or significant highlighting of inconsistency or error through cross-examination. Given that I have concluded significant planning harm in this case, the singular absence of a powerful and proven up-to-date need case must weigh against the proposed development in the ultimate planning balance.

4) The possibility of surplus marina capacity

77. Despite the clear intention of J Marine to soon commence development of the very large Barby Pools Marina, the potential capacity of which must be assumed in any equation of need in the locality, the evidence from a number of marina operators is of increasing difficulty in achieving the level of occupancy assumed for planned rental income. This is a particularly challenging situation for them bearing in mind the notional occupancy on which fees are due to CRT from marina operators. It seems to me that, in current circumstances, the competition between marinas for rental income can only be intensified by the addition of further marinas, certainly pending a return to the growth circumstances prevalent at the time of the IMIG. Either occupancy will continue to drop, possibly significantly so, or else custom will be drawn into the Braunston Pound and its vicinity from further afield, increasing vacancy levels elsewhere on the canal system.
78. In the closely regulated and planned provision of marina capacity advocated by Mr Corcoran on behalf of Braunston Marina, it seems to me that the prospect of surplus capacity would of itself negate the claimed need or demand for the proposed marina, because in the foreseeable future at least the growth scenario upon which it is predicated has faltered significantly and previously anticipated need on the system as a whole is failing to materialise. I have no doubt that the appellant in this case (or indeed the existing and other prospective marina operators in the locality) is under no illusions that the market circumstances could be difficult. However, it is a fact of commercial enterprise that competition for customers is to be expected and it is not for the planning system to unnecessarily inhibit such competition.

5) Harmful planning consequences of surplus capacity?

79. As is generally the case in a free market economy, competition brings benefits in terms of choice and price and marina users are no exception to the principle, although if surplus capacity were to be manifest in the form of derelict and abandoned marina basins, the blight and unsightliness associated with such features would be harmful in planning terms and viable alternative uses could be hard to achieve. Although the existing marina operators referred to increasing levels of under-occupation, I am conscious that the Barby Pools Marina is set to go ahead nevertheless and that the appellant company also remains confident that its proposed investment would be worthwhile. Whilst the evidence of Mr Corcoran for Braunston Marina is convincing in respect of the changes that have occurred in past few years, the short term past is not necessarily a reliable indicator of the medium to long term future and I do not consider that there is sufficient evidence

before me as to how the inland marina market might perform in post-recessionary circumstances, looking ahead, to conclude that more intense competition would necessarily lead to closures locally. The best that can be said is that there is no clear evidence of a current need which must be satisfied locally.

80. In concluding thus I am cognisant of the fact that the strategic location of the Braunston Pound and its environs within the national network potentially renders it particularly attractive to boat owners and therefore uptake of new capacity in the locality could well be at the expense of marina enterprises further afield, an effect that might ultimately be quite diffuse. The CRT now takes a markedly more passive approach to the prospect of new marina development than it was inclined to previously, when new capacity was generally supported as a matter of principle.²⁰ It seems to me in all the circumstances that while the market overall may be experiencing a lull that may or may not be temporary, interest in this area is likely to remain relatively strong in terms of demand, if not absolute need objectively assessed. It could well be the case that the adverse economic impact of surplus capacity in a relatively static market would be diluted over the regional or even national network if boat owner's generally perceived advantage in berthing at such a central and accessible location.
81. Nevertheless, the consequences of satisfying focused demand for berths in this particular locality could give rise to consequences locally that may be perceived as undesirable by many canal users, notably congestion within and around the Braunston Pound and I was presented with documentary and oral evidence to the effect that this could indeed be experienced at peak times in the summer months, manifest especially in prolonged waiting times at locks. While, for the time being at least, there is no agreed measure of unacceptable congestion on the canals, I have no doubt that unusually heavy usage does occur from time to time and that it is experienced in this area to the detriment of enjoyment of the boating experience. Whether this is a significantly adverse planning consequence is perhaps rather debatable, given that rural leisure activity frequently gravitates to 'honeypot' locations and that, historically, certain sections of working canals would no doubt have been prone to congestion in the context of their original raison d'être. Whilst I am cognisant of the social undesirability of exacerbating congestion on this part of the canal system from the perspective of existing boat owners with berths in the locality and those passing through I therefore place limited weight on the matter, bearing in mind also that there is no objection from CRT on an operational basis.

6) The planning balance; does the proposal represent sustainable development?

82. The starting point is the development plan, which is not silent on the principle of where developments such as this ought to be located. They are directed to the environs of established settlements. I have concluded that the proposal would conflict with this intention and a core principle of the Framework is that development should be plan-led. Moreover, the evidence demonstrates that there would be significantly harmful conflict with development plan and Framework intentions in respect of landscape and heritage which could not be adequately mitigated by the imposition of planning conditions. The weight of the evidence on the need for the development is to the effect that, for the time being at least, there is no pressing objectively assessed need for additional capacity, notwithstanding the aspirations of the appellant and rival operators to cater for such demand as may be catered for in the locality of the Braunston Pound, certainly if the broader picture on the network is accounted for. Need per se is therefore insufficient to

²⁰ Section E of Mr Corcoran's evidence addresses this in some detail

outweigh the adverse impacts of the proposed development in the context of the development plan and the Framework taken as a whole.

83. Clearly there would be some economic benefits to the locality during construction and operation of the proposed marina but these have been vaguely asserted without the benefit of up-to-date evidence and there is clearly a risk that the benefits arising from its operation would be diluted in terms of the national economy even if local competition between marinas in this popular location did not result in harmful loss to established and rival concerns. I am not therefore persuaded that the overall benefits to the rural economy would be sufficient to outweigh the harm, including the less than substantial harm to the conservation area identified. Aside from that concerning potential economic benefits there is no appreciable evidence to suggest other significant public benefits, including social benefits, which might outweigh this and the other harms I have identified.
84. Paragraph 196 of the Framework explains that the planning system is plan-led by statute and, for the reasons I have given, including harmful conflict with the development plan, the adverse impacts of allowing the proposed marina development would significantly and demonstrably outweigh the benefits of doing so, when assessed against the policies of the Framework taken as a whole. Therefore the proposed development cannot be considered to represent sustainable development in that context. For that reason, having taken all other matters raised, including numerous other appeal decisions and various legal rulings, into account, I conclude that the appeal should be dismissed.

Keith Manning

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Simon Aley MA LLB Dip LG, Solicitor

He called

Lesley-Ann Mather MA	County Archaeological Adviser, Northamptonshire County Council
Rachel Booth BSc (Hons) MSc (Oxon) MSc IHBC	Conservation Officer, Daventry District Council
Robert Ham BA B.PI MRTPI	Senior Planning Officer, Daventry District Council

FOR THE APPELLANT:

Christopher Whitehouse MRICS BSc (Hons)
appeared as both advocate and witness

RULE 6 PARTIES:

FOR BRAUNSTON MARINA: Nadia Sharif of Counsel

She called

Chris Corcoran MA (Oxon) DipTP MRTPI	Chris Corcoran Planning
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FOR J MARINE: Nadia Sharif of Counsel

She called

Lucy Cash BSc (Hons) MCIEEM	Crestwood Environmental Ltd
Karl Jones BSc (Dual Hons)	Crestwood Environmental Ltd
CMLI CEnv MIAgrM AIEMA	
Chris Hoskins BSc (Eng) CEng FICE	CH Consultancy Ltd
Narvinder Bains BA (Hons) MA MRTPI	PJ Planning

INTERESTED PERSONS:

Councillor Lomax	Ward Councillor
Mrs Catherine Camp BSc (Hons) CiLCA FILCM	Parish Clerk, Barby Parish Council
Mrs Deborah Bradshaw	Canal user
Mr Tony Ward	Canal user (Boatmaster & instructor)
Mr Hugh Mayes	Retired marina operator/owner
Mr Adrian Hallam	Marina operator/owner

INQUIRY DOCUMENTS

- ID1 Notification of Inquiry and list of those notified
- ID2 Council's opening statement
- ID3 Statement by Mr Ward
- ID4 Environmental Statement publicity
- ID5 Statement by Mrs Camp for Barby & Onley Parish Council
- ID6 Extract from Inland Waterways Map of Great Britain
- ID7 Statement by Councillor Lomax
- ID8 Reservoirs Act 1975
- ID9 Statement by Mr Mayes
- ID10 Series of plans from Ms Bains to compare application site with extent of proposed engineering works
- ID11 Statement by Mrs Bradshaw
- ID12 Statement by Peter Mansell of Key Transport (not present at inquiry)
- ID13 Closing submissions on behalf of Braunston Marina Ltd and J. Marine Ltd (with appendices: *R v North Yorkshire County Council ex parte Brown*; and *R v Rochdale MBC ex parte Tew*)
- ID14 Council's closing submissions
- ID15 Appellant's closing submissions
- ID16 Council's costs application

PLANS

Plan of Onley marina proposal distributed for information at site visit

CORE DOCUMENTS

Submitted by Council

- DCD1 Planning Officers' report to Planning Committee, 16/05/13
- DCD2 Minutes of Planning Committee of 16/05/11
- DCD3 Canal Conservation Area document, 1995 (relevant extracts)
- DCD4 Decision letter for previous appeal on part of current appeal site dated 1st April 2010. LPA ref: DA/2009/0106; PINS ref: APP/Y2810/A/09/2114076
- DCD5 Decision letter for previous appeal on land on opposite bank close to current appeal site (Barby Moorings) dated 11th September 2009. LPA ref: DA/2008/1258; PINS ref: APP/Y2810/A/09/2100581
- DCD6 West Northamptonshire Joint Core Strategy, adopted 15th December 2014 - Forward, Contents and List of Policies, and Relevant Policies
- DCD7 Daventry District Local Plan, relevant saved policies
- DCD8 Statement of Northamptonshire County Highways, November 2014
- DCD9 Suggested Conditions
- DCD10 English Heritage – Conservation Principles, Policy & Guidance (2008)

DCD11 English Heritage – The Setting of Heritage Assets (2011)

DCD12 PPS5 Practice Guide, (2010)

Submitted by Rule 6 Parties

- MCD1 Statement of Objection in Respect of Planning Appeal Reference: APP/Y2810/A/13/2200749, by PJ Planning (June 2014)
- MCD2 Letter from Planning Inspectorate dated 28th July 2014
- MCD3 Letter from Planning Inspectorate dated 21st August 2014
- MCD4 Daventry District Local Plan Saved Policies GN1, GN2, EN2, EN25, EN42, RC8 and TM2
- MCD5 Joint Core Strategy Policies SA, S1, E7, BN5 and R2
- MCD6 National Guidance: The Setting of Heritage Assets (English Heritage, 2011)
- MCD7 Local Guidance: The Grand Union/Oxford Canal Conservation Area (Daventry District Council, September 1995)
- MCD8 The National Planning Policy Framework (2012)
- MCD9 European Commission (May 1999) Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions
- MCD10 HMSO (2011) Town and Country Planning (Environmental Impact Assessment) Regulations
- MCD11 DOE (December 1995) Preparation of Environmental Statements for Planning Projects that Require Environmental Assessment
- MCD12 ODPM (March 1999) Circular 02/99: Environmental Impact Assessment [particularly Appendix C]
- MCD13 ODPM (January 2000) Environmental Impact Assessment: A Guide to Procedures [particularly Appendix 4 and Appendix 5]
- MCD14 Department for Communities and Local Government (June 2006) Environmental Impact Assessment: A Guide to Good Practice and Procedures - Consultation Draft
- MCD15 Essex Planning Association (2007) The Essex Guide to Environmental Impact Assessment

Other Cases and Decisions put forward by Council

Barnwell Manor Wind Energy Ltd –v- East Northamptonshire DC, English Heritage, SoSCLG [2014] EWCA Civ 137

Bath Society –v- Secretary of State for the Environment [1992] 1 All ER 28

R(oao) Forge Field Society, Martin Barraud, Robert Rees –v- Sevenoaks DC and West Kent Housing Association and The Honourable Philip John Algernon Viscount de l’Isle [2014]EWHC 1895 (Admin)

Appeal Ref: APP/L26300/A/13/2207755 Land around Bussey’s Loke North of Hempnall Road, Hempnall, Norfolk

Appeal Ref: APP/Y2810/A/14/2222311 Land east of West Haddon between Guilsborough Road, Northampton Road and the A428 Bypass 24/12/2014 R Schofield

Appeal Ref: APP/L3055/A/13/2194755 Red Hill Marina, Ratcliffe on Soar, Nottingham John Woolcock 20/1/2015

South Lakeland DC –v- SoSE et al. [1992] 1 All ER 45